

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Max Bernstein	Team: Team # 6	CCRB Case #: 201305298	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/04/2013 9:15 PM	Location of Incident: Warwick Street and Livonia Avenue	Precinct: 75	18 Mo. SOL 11/4/2014	EO SOL 11/4/2014	
Date/Time CV Reported Fri, 06/14/2013 1:52 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 06/14/2013 1:52 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Alexis Bruno	20005	952502	PBBN
2. SGT Burt Antoine	01082	939877	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Wing Chan	24611	952573	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.POM Alexis Bruno	Abuse: PO Alexis Bruno threatened to damage § 87(2)(b) s property.	
B.POM Alexis Bruno	Force: PO Alexis Bruno used physical force against § 87(2)(b)	
C.POM Alexis Bruno	Abuse: PO Alexis Bruno questioned § 87(2)(b)	
D.SGT Burt Antoine	Abuse: Sgt. Burt Antoine questioned § 87(2)(b)	
E.POM Alexis Bruno	Abuse: PO Alexis Bruno searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
F.SGT Burt Antoine	Abuse: Sgt. Burt Antoine searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	

Case Summary

On June 14, 2013, § 87(2)(b) filed this complaint on behalf of himself and his wife, § 87(2)(b) in person at the CCRB. Additionally, on July 31, 2013, § 87(2)(b) filed a duplicate of this complaint with the Internal Affairs Bureau via telephone (encl. 11A-B). On May 4, 2013, § 87(2)(b) and § 87(2)(b) were inside of § 87(2)(b) idling vehicle on Warwick Street and Livonia Avenue in Brooklyn. PO Alexis Bruno and PO Wing Chan of Patrol Borough Brooklyn North approached § 87(2)(b) vehicle and the following allegations resulted:

- **Allegation A: Abuse of Authority—PO Alexis Bruno threatened to damage § 87(2)(b) property.**
§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation B: Force—PO Alexis Bruno used physical force against § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation C: Abuse of Authority—PO Alexis Bruno questioned § 87(2)(b)**
- **Allegation D: Abuse of Authority—Sgt. Burt Antoine questioned § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation E: Abuse of Authority—PO Alexis Bruno searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation F: Abuse of Authority—Sgt. Burt Antoine searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) was arrested as a result of this incident and therefore, this complaint was not eligible for mediation. On September 13, 2013, this case was reassigned to Inv. Max Bernstein following Inv. Jonathan Phillips' departure from the agency.

Results of Investigation

Civilian Statements

Complainant/victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. § 87(2)(b)

CCRB Statement:

§ 87(2)(b) was interviewed at the CCRB on June 14, 2013 (encl. 12A-E). His interview is summarized below.

At approximately 9:15 p.m. on May 4, 2013, § 87(2)(b) pulled his vehicle, a silver 2003 Honda Accord coupe, over to the side of the road in a legal parking space on Livonia Avenue between Warwick Street and Jerome Street in Brooklyn. § 87(2)(b) stated that he and his girlfriend, § 87(2)(b) who was seated in the front passenger's seat, had come from § 87(2)(b)'s home located in Bensonhurst. § 87(2)(b) is diabetic and periodically needs to inject himself with insulin in order to maintain the sugar levels in his bloodstream. § 87(2)(b) felt the need to inject himself with his insulin, so while seated in the driver's seat of his vehicle, with the engine running, § 87(2)(b) placed a sun visor across the front windshield for privacy. Additionally, § 87(2)(b) vehicle has 35% tinted windows on all windows and the rear windshield.

§ 87(2)(b) took his shirt off, unbuckled his belt, and pulled his jeans down to around his knee area. § 87(2)(b) injected himself in the thigh with his insulin by using a needle. It took § 87(2)(b) about ten minutes to prepare his insulin, place the sun visor across the front windshield, pull down his pants, and inject himself with insulin. § 87(2)(b) remained seated beside § 87(2)(b) in the front passenger's seat the entire time. After about ten minutes, § 87(2)(b) notified § 87(2)(b) to the presence of flashlights shining directly outside the vehicle.

PO "Bruno" (identified through investigation as PO Alexis Bruno of Patrol Borough Brooklyn North) struck the driver's window of the vehicle with his hand while yelling, "I know you're in there! I will break this fucking window! Get the fuck out of the car!" § 87(2)(b) rolled his window down about halfway, told PO Bruno that he was undressed, rolled his window back up, pulled his pants back up, and exited his vehicle voluntarily about three minutes later. During the three minutes § 87(2)(b) finished injecting himself in the thigh with his insulin and he pulled his pants up and placed the insulin and needle into his center console and into his glove compartment, respectively.

When § 87(2)(b) stepped out of his vehicle, PO Bruno immediately grabbed him by the biceps on both arms, spun his body around, and pushed him in the back. § 87(2)(b) chest and face hit the vehicle near the trunk as a result of the push. § 87(2)(b) face made contact with the vehicle, which caused him to bleed from the inner bottom lip. PO Bruno then handcuffed § 87(2)(b). § 87(2)(b) did not move his arms or resist in any way.

PO "Chan" (identified through investigation as PO Wing Chan of Patrol Borough Brooklyn North) escorted § 87(2)(b) towards the trunk of the vehicle and positioned him so that his back was to the car. § 87(2)(b) heard PO Bruno ask § 87(2)(b) to exit the vehicle. § 87(2)(b) complied with the order and PO Bruno asked for her identification. PO Bruno asked § 87(2)(b) questions about her relationship to § 87(2)(b) such as, "Are you guys together? Where's your ring?" PO Bruno also said, "I know you're not married! I know what you're here for!"

PO Bruno took § 87(2)(b)'s identification and handed it to Sgt. Antoine (identified as Sgt. Burt Antoine of Patrol Borough Brooklyn North) who had arrived at the scene after § 87(2)(b) was handcuffed. Sgt. Antoine then asked § 87(2)(b) "What are you doing out here? How long have you been together? Do you have pictures together? What couple doesn't have pictures together? Where did you meet? What's his first, middle, and last name? What's his birthday? Where does he live?" § 87(2)(b) responded to all of these questions.

§ 87(2)(b) remained positioned near the trunk of his vehicle facing away from his vehicle, but he turned his head and saw PO Bruno enter his vehicle through the driver's door and Sgt. Antoine enter the vehicle through the passenger's door. § 87(2)(b) heard the sound of his glove compartment and center console opening and closing. § 87(2)(b) could not estimate the length of time that PO Bruno and Sgt. Antoine searched his vehicle.

PO Bruno and Sgt. Antoine located a switchblade knife that § 87(2)(b) had stored in a shelf underneath his radio. The knife was protruding from the shelf, but § 87(2)(b) said that no part of the knife was visible from the outside of the vehicle. The knife was a switchblade hunting knife with a black handle and a black blade. The knife did not open with gravity and is about the size of a pen when fully extended.

§ 87(2)(b) was placed into a police van and he was driven to the 75th Precinct stationhouse, where he was charged with criminal possession of a weapon.

Victim: § 87(2)(b)

On November 4, 2013, § 87(2)(b) was interviewed over the telephone (encl. 13A-B). § 87(2)(b) refused to provide a sworn statement, as she said she was uncomfortable with the process. § 87(2)(b)'s telephone statement is summarized below.

On May 4, 2013, at approximately 9:15 p.m., § 87(2)(b) was in the passenger's seat of her husband, § 87(2)(b) two-door Honda Accord. § 87(2)(b) was driving to § 87(2)(b)'s residence, but he was not feeling well, so he pulled over on Livonia Avenue between Warwick Avenue and Long Street. § 87(2)(b) explained that § 87(2)(b) is a type one diabetic, and he prepared an insulin shot when he pulled over. § 87(2)(b) put up a visor in the front windshield to give § 87(2)(b) privacy.

§ 87(2)(b) and § 87(2)(b) were pulled over for approximately five minutes when she noticed two uniformed police officers walk past the car. The officers initially did not seem to notice the vehicle, however, after they walked a few feet past the car, they turned around and approached § 87(2)(b) vehicle. As the officers walked back towards the car, § 87(2)(b) warned § 87(2)(b) that officers were approaching.

An officer § 87(2)(b) identified as PO "Bruno" approached on the driver's side and another officer (identified through investigation as PO Chan) approached on the passenger's side. PO Bruno banged his hand and his flashlight on the driver's side window, which was tinted. PO Bruno repeatedly stated, "I know you're in there. I'll break this fucking window." § 87(2)(b) and § 87(2)(b) both told PO Bruno that they needed a minute so that § 87(2)(b) could get dressed, but PO Bruno kept banging.

After less than one minute, § 87(2)(b) stepped out of the vehicle, at which point PO Bruno pushed him face first against the car and handcuffed him. § 87(2)(b) screamed for the officers to stop. PO Bruno led § 87(2)(b) to the rear of the vehicle. PO Bruno then approached the passenger's side of the vehicle and asked § 87(2)(b) a series of inappropriate questions. He asked her if she was dating § 87(2)(b) where her ring was, and stated that he knew they were not married. § 87(2)(b) answered the questions, but believed PO Bruno was suggesting she was a prostitute based on the line of questioning.

PO Bruno then asked § 87(2)(b) for identification, which she provided. PO Bruno went over the radio with § 87(2)(b)'s information. A sergeant, whom § 87(2)(b) identified as Sgt. "Antoine" then arrived at the scene. PO Bruno handed Sgt. Antoine § 87(2)(b)'s identification. Sgt. Antoine approached § 87(2)(b) and asked her questions regarding § 87(2)(b) such as his first, middle, and last name, where § 87(2)(b) lives, where they met, and his date of birth. § 87(2)(b) answered each question, but Sgt. Antoine shook his head repeatedly, which made § 87(2)(b) think her answers were not sufficient. Sgt. Antoine asked § 87(2)(b) to step out of the vehicle and she did and stood on the sidewalk.

All three officers then entered § 87(2)(b) vehicle and searched it for approximately five minutes. The officers went through the glove compartment of the vehicle, as well as § 87(2)(b)'s purse, which was in the car. In the glove compartment, one of the officers found a small pocket knife. § 87(2)(b) noted that § 87(2)(b) carries the knife because he has had a stalker for about two years and he carries it for protection.

After the knife was found, § 87(2)(b) was placed in a marked police van at the scene and Sgt. Antoine and PO Chan drove off with § 87(2)(b).

NYPD Statements:

Subject Officer: PO ALEXIS BRUNO

- *PO Bruno was § 87(2)(b) at the time of the incident. § 87(2)(b).*
- *PO Bruno worked from 7:30 p.m., on March 4, 2013, until 4:05 a.m. on May 5, 2013. He was assigned to Conditions with PO Wing Chan, dressed in uniform, and working on foot.*

Memo Book (encl. 14A-E):

At 8:20 p.m., PO Bruno noted that he had one female stopped, § 87(2)(b) at Warwick Avenue and Livonia Avenue. PO Bruno then made other unrelated entries, but before his tour was over, he made an omitted entry, noting that § 87(2)(b) was stopped in a car with a naked male. § 87(2)(b) did not know the male's address and the male did not know § 87(2)(b)'s full name. § 87(2)(b) was not frisked. PO Bruno also noted some of § 87(2)(b)'s contact and identifying information on his fly page.

CCRB Statement:

On February 13, 2014, PO Bruno was interviewed at the CCRB (encl. 15A-D). His statement is summarized below.

On May 4, 2013, at approximately 8:20 p.m., PO Bruno was on foot patrol with PO Chan in the vicinity of Warwick Avenue and Livonia Avenue in Brooklyn. PO Bruno believes he was walking when he noticed a car that was on, but pulled over and idling, which is a summonsable offense. PO Bruno knew that the car was on because he could hear it running. The vehicle had a visor covering the entire front windshield and all of the other windows on the vehicle were tinted. The area is lit by street lights, but it was still pretty dark near the vehicle. PO Bruno was unable to see inside, so he approached to see if there was anyone inside of the vehicle.

As PO Bruno got closer to the vehicle, he still could not see inside because of the visor and window tints. PO Bruno walked up next to the driver's window, as PO Chan walked up to the passenger's side window. PO Bruno shined his flashlight into the driver's side window, at which point he saw a male who was not wearing pants (identified as § 87(2)(b)). PO Bruno turned

away almost immediately after making the initial observation because he was uncomfortable with the situation. However, before he turned away, he saw § 87(2)(b) with his pants down to his knees, leaned over towards the center console. § 87(2)(b)

PO Bruno backed away from the car and told PO Chan that § 87(2)(b) was naked, to which PO Chan nodded affirmatively, which PO Bruno took to mean that PO Chan observed the same thing.

The window was rolled up, so PO Bruno knocked on the window with his hand and asked § 87(2)(b) to roll it down. PO Bruno was asked if he said he would, “break the fucking window” and PO Bruno said that he did not recall making that statement. PO Bruno added that tensions were high and he was nervous about the situation, but he did not recall his specific statements. After PO Bruno knocked on the window, § 87(2)(b) stated, “What the fuck do you want?” Again PO Bruno knocked on the window, to which § 87(2)(b) replied, “Get the fuck off my door handle.”

After about two to three minutes, § 87(2)(b) slightly rolled down his window. In those two to three minutes, PO Bruno asked § 87(2)(b) to open the window multiple times. PO Bruno said that at this time, § 87(2)(b) could have been placed under arrest for indecent exposure.

PO Bruno did not look in the window frequently because he was uncomfortable with the situation, however, when he looked in, he saw § 87(2)(b) fidgeting around. It did not look like § 87(2)(b) was pulling up his pants, but instead looked like he was leaning towards either the center console or the female passenger. PO Bruno could not describe the movements any further. PO Bruno believed that § 87(2)(b) might have been trying to hide something because of the movements and the length he remained in the car without opening the window.

When § 87(2)(b) slightly rolled down the window, PO Bruno asked “Who’s that?” pointing to the female passenger, identified as § 87(2)(b) said that she was his wife. PO Bruno asked § 87(2)(b) what § 87(2)(b)’s name was, but § 87(2)(b) did not answer and instead closed the window. PO Bruno then asked § 87(2)(b) to get out of the vehicle. PO Bruno did not recall if he said, “Get the fuck out of the car,” but he again noted that he was very nervous.

After two or three additional minutes, § 87(2)(b) got out of the car and did so very quickly. § 87(2)(b) was not pulled out as he got out on his own. § 87(2)(b) had been refusing to exit his vehicle for about five minutes in total and it caught PO Bruno by surprise that he did so so quickly. Additionally, due to § 87(2)(b) constant movement inside the vehicle, the prolonged refusal to get out of the car, and the fact that the incident was in a high crime area, PO Bruno thought that § 87(2)(b) may have been armed. As such, when § 87(2)(b) got out of the car, PO Bruno grabbed his arms to handcuff him.

When PO Bruno grabbed § 87(2)(b) arms, § 87(2)(b) pulled them up towards his chest. PO Bruno did not lose grip of § 87(2)(b) arms and PO Bruno tried to spin § 87(2)(b) around, but § 87(2)(b) resisted that motion so that he remained facing PO Bruno. Additionally, § 87(2)(b) was cursing at PO Bruno at this time, but PO Bruno did not recall the exact statements. PO Chan then came around to the driver’s side and assisted PO Bruno. Both officers grabbed § 87(2)(b) arms and turned him around. PO Bruno did not attempt to push § 87(2)(b) against the car, but because they were standing so close to the vehicle, when § 87(2)(b) was turned, his

body made contact with the rear quarter panel of the car. § 87(2)(b) face did not make contact with the vehicle.

After § 87(2)(b) was turned, he was handcuffed, at which point PO Bruno observed a blue knife sitting on the driver's seat of § 87(2)(b) vehicle. PO Bruno did not recall other descriptive information about the knife. PO Chan also acknowledged seeing the knife and PO Bruno retrieved the knife right after § 87(2)(b) was handcuffed. When PO Bruno retrieved the knife, he determined that it was a gravity knife. § 87(2)(b) was still inside of the car when the knife was retrieved. § 87(2)(b) was asked what the knife was for and he said protection, which to PO Bruno was § 87(2)(b) admission that the knife was his. At this point, § 87(2)(b) was under arrest and there was no further discussion about the knife. PO Bruno called Sgt. Antoine at this time.

Sgt. Antoine arrived about five minutes later. When the sergeant arrived, § 87(2)(b) calmed down substantially. § 87(2)(b) explained that he is a § 87(2)(b), that he lived around the corner, and that his girlfriend was in the car. However, these statements raised PO Bruno's suspicion about the prostitution, because § 87(2)(b) had earlier referred to § 87(2)(b) as his wife and PO Bruno was confused as to why § 87(2)(b) would need to be naked in his vehicle if he lived around the corner. § 87(2)(b) did not mention anything about insulin or diabetes. § 87(2)(b) never gave an explanation as to why he did not have pants on.

PO Bruno added that at some point before Sgt. Antoine arrived, he asked § 87(2)(b) to step out of the vehicle and to present identification. PO Bruno also asked § 87(2)(b) how she knew § 87(2)(b) and who he was to her. § 87(2)(b) said that § 87(2)(b) was a friend. PO Bruno did not recall any other questions he asked § 87(2)(b). PO Bruno was directed to his memo book, which noted that § 87(2)(b) did not know § 87(2)(b) address, but PO Bruno said that he did not independently recall asking her that question. PO Bruno questioned § 87(2)(b) because she was in a car with a naked male, it was night time in a high crime area, § 87(2)(b) lack of knowledge about § 87(2)(b) and the fact that § 87(2)(b) lived around the corner, also led him to requesting § 87(2)(b)'s identification.

When Sgt. Antoine arrived, PO Bruno gave him § 87(2)(b)'s identification. Sgt. Antoine then spoke with § 87(2)(b) but PO Bruno did not hear that conversation as he stepped away. PO Bruno and Sgt. Antoine then entered § 87(2)(b) vehicle. PO Bruno entered the vehicle from the front passenger's side and Sgt. Antoine went through the driver's seat. PO Bruno checked under the front two seats and reached his hand to the floor of the rear seat, where a driver or passenger could put something while seated in the front. PO Bruno did not recall if he opened the glove compartment or center console at any point. PO Bruno described the search as a "brief stint," but could not approximate how long he and Sgt. Antoine were in the car for, other than that it was more than a minute. There was no contraband recovered. PO Bruno did not see PO Chan go inside of the vehicle at any point.

Following the search, § 87(2)(b) was transported back to the stationhouse with Sgt. Antoine and PO Chan, but PO Bruno remained on patrol. § 87(2)(b) vehicle was left in the spot where PO Bruno had initially seen it.

Witness Officer: PO WING CHAN

- *PO Chan was § 87(2)(b) at the time of the incident.* § 87(2)(b)

- *PO Chan worked from 7:30 p.m., on May 4, 2013, until 4:05 a.m., on May 5, 2013. PO Chan was assigned to foot post 2, which covers New Lots Avenue from Barbey Street to Van Siclen Avenue. PO Chan was dressed in uniform, worked on foot, and worked with PO Alexis Bruno, who was assigned to foot post 1.*

Memo Book (encl. 16A-C):

At 8:30 p.m., PO Chan noted one male stopped at Livonia Avenue between Warwick Street and Barbey Street. At 9:15 p.m., PO Chan noted one male under, § 87(2)(b) for criminal possession of a weapon. § 87(2)(b) was in a running vehicle with no clothes on. A switchblade knife was recovered in the center of car in a cup holder. Sgt. Antoine verified the arrest and at 9:20 p.m., PO Chan transported § 87(2)(b) to the stationhouse.

Complaint Report and Arrest Report:

PO Bruno prepared complaint number § 87(2)(b) (encl. 17A-B) and arrest number § 87(2)(b) (encl. 18A-B) for this incident. The narrative in both forms read the same and listed that PO Chan observed a running vehicle parked on the street with a man nude within. Upon further investigation, the man explained that he was changing and had a knife in plain view, in the center of the car in the cup holder. § 87(2)(b) stated that the knife was used for defense. Force was listed as being used to restrain/control/remove § 87(2)(b) but no injuries were listed.

CCRB Statement:

On April 29, 2014, PO Chan was interviewed at the CCRB (encl. 20A-C). His statement was generally consistent with PO Bruno's statement, with any additions, discrepancies, or important information noted below.

On May 4, 2013, at approximately 8:30 p.m., PO Chan was walking with PO Bruno, eastbound on Livonia Avenue in the Bronx, under the train tracks. The officers were on the south side of the street and they passed a vehicle, in a legal parking spot, on Livonia Avenue between Barbey Street and Warwick Street. PO Chan walked past the vehicle about two or three feet and realized that the vehicle was on and was idling. PO Chan could hear the vehicle's engine running and saw that the vehicle was on. Additionally, PO Chan noted that the vehicle's side windows appeared to be illegally tinted, although he never conducted a further investigation into the tints.

Both officers approached the driver's side of the vehicle, which was on the street side of the car. As PO Chan approached the car, he was able to see through the tinted driver's side window that there was a shirtless man inside of the car. PO Chan then used his flashlight to better see into the vehicle and he saw that the male was completely naked and was just sitting in the driver's seat.

PO Chan and PO Bruno both knocked on the window and asked for the driver to roll down his window. PO Bruno repeatedly requested § 87(2)(b) identification. After about one to two minutes, § 87(2)(b) rolled down the window. PO Bruno asked § 87(2)(b) for his license, but § 87(2)(b) asked what was going on and did not provide it. PO Bruno said that he needed § 87(2)(b) information immediately, but § 87(2)(b) rolled the window back up. While the window was rolled down, PO Chan noticed a female in the passenger's seat of the vehicle.

After § 87(2)(b) rolled the window back up, PO Chan and PO Bruno banged on the window and asked for § 87(2)(b) to roll down the window and provide his license. Both officers made the requests. At no point did PO Bruno or PO Chan say, "Get the fuck out of the car," or "break this fucking window."

§ 87(2)(b) remained in his car with the window rolled up and was fidgeting around, reaching under his seat, reaching into both sides of his seat, and in the center console. While fidgeting, it also appeared § 87(2)(b) was getting dressed. PO Chan repeated the orders for § 87(2)(b) to get out of the car and he called his sergeant to come to the scene.

After five to ten minutes, § 87(2)(b) exited his vehicle on his own. When § 87(2)(b) got out of the vehicle, he left his door open and PO Chan observed a red handle of a knife in the driver's side cup holder, which based on his experience, he knew was a switchblade. At that point, § 87(2)(b) was under arrest.

PO Chan grabbed § 87(2)(b) left shoulder and arm, while PO Bruno grabbed § 87(2)(b) right arm and handcuffed it. § 87(2)(b) began to move his arms and push away from the officers. He was also swinging his elbows. § 87(2)(b) was face-to-face with the officers, with his back to his vehicle. PO Chan held onto § 87(2)(b) left arm and after PO Bruno handcuffed the right wrist, he walked behind § 87(2)(b) to the left side, and secured § 87(2)(b) other arm. § 87(2)(b) was not facing his vehicle during the struggle and was not pushed up against his car.

After § 87(2)(b) was handcuffed, he was led to the rear of his vehicle, where he remained with PO Chan. PO Bruno then walked to the driver's side and recovered the knife from the driver's side cup holder in the center console. No compartments were opened in order to recover the knife. PO Bruno was inside of the car for approximately five seconds.

When Sgt. Antoine arrived, he interviewed § 87(2)(b) and then interviewed § 87(2)(b) outside of the vehicle. When Sgt. Antoine spoke with § 87(2)(b) § 87(2)(b) said that § 87(2)(b) was his wife, but he did not know her full name or date of birth. When Sgt. Antoine spoke with § 87(2)(b) it was near the front passenger's side of § 87(2)(b) vehicle and PO Chan could not hear the conversation from where he was standing and did not know if § 87(2)(b)'s identification was requested.

PO Chan did not recall Sgt. Antoine going inside of § 87(2)(b) vehicle at any point. PO Chan denied going inside of the vehicle at any point and other than when PO Bruno quickly retrieved the knife, PO Bruno did not go into the car either. § 87(2)(b) vehicle was locked and left in the same location where it had initially been stopped.

After the arrest was verified, PO Chan and Sgt. Antoine transported § 87(2)(b) to the 75th Precinct stationhouse, while PO Bruno remained on patrol.

PO Chan believed he asked § 87(2)(b) at the scene why he had been naked in the car, but did not get a response. At no point did § 87(2)(b) say that he was injecting himself with insulin or that he had diabetes. There were no signs that § 87(2)(b) was injecting himself with anything. PO Chan did not observe any injuries on § 87(2)(b) at any point.

Subject Officer: SGT. BURT ANTOINE

- Sgt. Antoine was § 87(2)(b) at the time of the incident. He § 87(2)(b) s.
- Sgt. Antoine worked from 7:15 p.m., on May 4, 2013, until 4:12 a.m., on May 5, 2013. He worked as the 75th Precinct West Impact sergeant, was dressed in uniform, worked with PO Ryan Monteleone, and worked out of a marked van, number 8779.

Memo Book (encl. 21A-B):

At 9:15 p.m., Sgt. Antoine verified one under arrest for PO Chan, for criminal possession of a weapon at Warwick Avenue and Livonia Avenue.

CCRB Statement:

On April 30, 2014, Sgt. Antoine was interviewed at the CCRB (encl. 22A-B). His statement was generally consistent with PO Bruno's statement and PO Chan's statement and is summarized below.

At 9:15 p.m., on May 4, 2013, Sgt. Antoine was called to Livonia Avenue and Warwick Avenue in Brooklyn to verify an arrest. Sgt. Antoine and PO Monteleone went to the scene and when they arrived, Sgt. Antoine observed a male and a female outside of a car. The male (identified through investigation as § 87(2)(b)) was near the rear and the female (identified through investigation as § 87(2)(b)) was near the front passenger's side. One officer was with each of the civilians, but Sgt. Antoine did not recall which officer was where.

Sgt. Antoine spoke with PO Bruno, who explained that he and PO Chan observed § 87(2)(b) with his pants down and with a female occupant inside of a vehicle. § 87(2)(b) refused multiple orders to get out of the vehicle. When he finally came out, PO Chan and PO Bruno observed a knife in plain view atop the center console. § 87(2)(b) was then placed under arrest. Sgt. Antoine did not witness the aforementioned, but was made aware by PO Bruno. PO Bruno already possessed the knife when Sgt. Antoine arrived. PO Bruno told Sgt. Antoine it had been in plain view.

At the scene, Sgt. Antoine had no direct interaction with § 87(2)(b). However, § 87(2)(b) was making statements that § 87(2)(b) was his wife. Sgt. Antoine spoke with § 87(2)(b) in order to find out who she was and if she could take § 87(2)(b) vehicle. Sgt. Antoine believed that either PO Chan or PO Bruno had § 87(2)(b)'s identification when he arrived at the scene. Sgt. Antoine asked § 87(2)(b) who she was and what her relationship to § 87(2)(b) was. § 87(2)(b) said she was § 87(2)(b) girlfriend and provided a date of birth for him that did not match his identification.

After speaking with § 87(2)(b) Sgt. Antoine said she was free to leave because based on the narrative he was told, she had not committed any crime. Sgt. Antoine then transported § 87(2)(b) back to the 75th Precinct stationhouse with PO Monteleone and PO Chan, while PO Bruno stayed on patrol.

At no point did Sgt. Antoine go inside of § 87(2)(b) vehicle. Sgt. Antoine did not see PO Bruno or PO Chan go inside of the vehicle and was never made aware of any vehicle search conducted by PO Bruno or PO Chan other than retrieving the knife.

NYPD Document

Command Log:

At 9:20 p.m., § 87(2)(b) was stamped into the 75th Precinct command log (encl. 26). The handwriting appears to match that of Sgt. Antoine's. The entry lists that § 87(2)(b) physical/mental condition is apparently normal and it lists that no force was used.

§ 87(2)(b)

Status of Civil Proceedings

- Neither § 87(2)(b) nor § 87(2)(b) have filed a Notice of Claim with the City of New York as of § 87(2)(b) well over the 90 day filing period, with regard to the incident (encl. 28).

§ 87(2)(b)

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) and the first complaint § 87(2)(b) has been involved in (encl. 6,7).

Subject Officers CCRB History

- PO Bruno has been a member of the service for one year and there are no substantiated CCRB allegations against him (encl.4).
- Sgt. Antoine has been a member of the service for eight years and there is one substantiated CCRB allegations against him (encl. 5A-B).
 - In case number 201212775, an allegation that Sgt. Antoine entered a location was substantiated. Command discipline was recommended and the NYPD gave Sgt. Antoine instructions.

Conclusion

Identification of Subject Officers

It is undisputed that PO Bruno and PO Chan initially approached § 87(2)(b) vehicle. While PO Chan stated that he and PO Bruno approached on the driver's side and both gave § 87(2)(b) verbal directives, § 87(2)(b) and PO Bruno said that only PO Bruno was on the driver's side and attributed the directives only to PO Bruno. Therefore, Allegation A is pleaded against PO Bruno. Additionally, § 87(2)(b) stated that PO Bruno was the only officer to use force against him. Therefore, Allegation B is pleaded against PO Bruno.

§ 87(2)(b) stated that both PO Bruno and Sgt. Antoine asked her questions regarding her relationship with § 87(2)(b) suggesting that she may have been engaging in prostitution. Therefore, Allegation C is pleaded against PO Bruno and Allegation D is pleaded against Sgt. Antoine.

§ 87(2)(b) alleged that both PO Bruno and Sgt. Antoine searched the vehicle at the scene, which was corroborated by PO Bruno's testimony. § 87(2)(b) attributed a vehicle search to PO Bruno, Sgt. Antoine, and PO Chan, but no other party present said that PO Chan searched the

vehicle. As such, Allegation E is pleaded against PO Bruno and Allegation F is pleaded against Sgt. Antoine.

Allegations Not Pleaded

It is undisputed that § 87(2)(b) had his pants down when PO Bruno and PO Chan initially approached him. It is also undisputed that § 87(2)(b) was inside of his idling vehicle, which he admitted had illegal window tints. PO Bruno testified that when he first saw § 87(2)(b) vehicle idling, he could have been summonsed, which is not true as he was in a legal parking spot. However, PO Bruno's intrusion did not rise to the level of a stop until he knocked on § 87(2)(b) window and demanded that § 87(2)(b) get out of the vehicle. At that point, PO Bruno had observed § 87(2)(b) sitting in a car with no pants on and thus, § 87(2)(b) could have been arrested for public lewdness (see NY Penal Law 245.00, encl. 1). Since § 87(2)(b) could have been arrested at that point, there is no debate regarding the legitimacy of the stop and thus, no stop allegation is pleaded.

§ 87(2)(b) stated that PO Bruno told him, "I know you're in there! I will break this fucking window! Get the fuck out of the car!" While this statement is discourteous, the threat to damage § 87(2)(b) property is a more egregious allegation and the discourteous statement is subsumed in the threat to damage property allegation.

Investigative Findings and Recommendations

Allegation A: Abuse of Authority—PO Alexis Bruno threatened to damage § 87(2)(b) property.

§ 87(2)(b) alleged that PO Bruno said, "I know you're in there! I will break this fucking window! Get the fuck out of the car!" § 87(2)(b) corroborated a nearly identical statement, alleging that PO Bruno said, "I know you're in there. I'll break this fucking window." PO Bruno stated that he knocked on § 87(2)(b) window and told § 87(2)(b) to roll it down. During his CCRB interview, PO Bruno was asked if he said, "break this fucking window" and PO Bruno did not recall making that specific statement. However, PO Bruno voluntarily added that tensions were high and he was nervous about the situation when asking § 87(2)(b) to roll down his window. PO Chan did not hear PO Bruno curse or threaten to break the window.

PO Bruno did not deny making the aforementioned statement and moreover, created a context in which it would logically proceed that he would say he would break § 87(2)(b) window. PO Bruno's statement, combined with § 87(2)(b) and § 87(2)(b)'s nearly identical testimony provides the investigation with a preponderance of the evidence that PO Bruno did threaten to break § 87(2)(b) window. However, the investigation also reached a preponderance of evidence that PO Bruno was justified in threatening to break the window.

§ 87(2)(b), § 87(2)(g)
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Allegation B: Force—PO Alexis Bruno used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after he got out of his vehicle, PO Bruno grabbed him by the biceps on both arms, spun his body around, and pushed him in the back so that § 87(2)(b) chest and face hit the vehicle near the trunk. § 87(2)(b) denied resisting and did not move his arms once PO Bruno grabbed him. Additionally, § 87(2)(b) said that he exited the car peacefully after he was dressed, in response to PO Bruno's orders. § 87(2)(b) said that after § 87(2)(b) got out of the car, PO Bruno pushed him face first against the car.

PO Bruno said that he grabbed § 87(2)(b) arms when § 87(2)(b) got out of the vehicle, but § 87(2)(b) pulled them up towards his chest. PO Bruno was still holding onto § 87(2)(b) arms and PO Bruno tried to spin § 87(2)(b) around, but § 87(2)(b) resisted that motion so that he remained facing PO Bruno. PO Chan then came around to the driver's side and assisted PO Bruno. Both officers grabbed § 87(2)(b) arms and turned him around. PO Bruno did not attempt to push § 87(2)(b) against the car, but because they were standing so close to the vehicle, when § 87(2)(b) was turned, his body made contact with the rear quarter panel of the car. § 87(2)(b) face did not make contact with the vehicle. PO Chan said that § 87(2)(b) was resisting, but § 87(2)(b) never faced the vehicle when he was handcuffed and he was never pushed up against the vehicle.

§ 87(2)(g)

Allegation C: Abuse of Authority—PO Alexis Bruno questioned § 87(2)(b)

Allegation D: Abuse of Authority—Sgt. Burt Antoine questioned § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) stated that after § 87(2)(b) was arrested, PO Bruno requested § 87(2)(b)'s identification. Additionally, § 87(2)(b) and § 87(2)(b) alleged that PO Bruno asked § 87(2)(b) questions regarding her relationship with § 87(2)(b). § 87(2)(b) believed that the questions suggested that she was a prostitute, as the officers asked to see pictures of the couple, a ring, and personal questions about one another.

PO Bruno said that he requested § 87(2)(b)'s identification and asked her what her relationship to § 87(2)(b) was. PO Bruno said he asked these questions because § 87(2)(b) was in a car with a naked male, it was night time in a high crime area, § 87(2)(b) earlier lack of knowledge about § 87(2)(b) inconsistent responses as to their relationship, and the fact that § 87(2)(b) lived around the corner yet was naked in a car. Sgt. Antoine also acknowledged asking § 87(2)(b) questions about her relationship with § 87(2)(b) but he said he did so to see if she could take § 87(2)(b) vehicle after he was arrested and to investigate the incident further so that he could accurately verify the arrest.

In order to conduct a common-law inquiry, an officer must have founded suspicion that criminal activity is afoot. *People v. De Bour*, 40 N.Y. 2d 210 (1976) (encl. 2A-K).

When § 87(2)(b) was questioned, § 87(2)(b) had already been arrested for criminal possession of a weapon and had been observed naked in a car with a female, thereby committing public lewdness. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation E: Abuse of Authority—PO Alexis Bruno searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation F: Abuse of Authority—Sgt. Burt Antoine searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) stated that PO Bruno and Sgt. Antoine searched his vehicle, including the glove compartments and center console. During the search, PO Bruno or Sgt. Antoine located a switchblade knife that § 87(2)(b) had stored in a shelf underneath his radio. The knife was protruding from the shelf, but § 87(2)(b) said that no part of the knife was visible from outside of the vehicle. § 87(2)(b) alleged that PO Bruno, Sgt. Antoine, and PO Chan searched the vehicle, including the glove compartment, where a small pocket knife was recovered.

PO Bruno and PO Chan stated that the moment § 87(2)(b) got out of his vehicle, a knife was visible in plain view. However, PO Bruno said that the knife was lying on the seat, while PO Chan said that the knife was in the driver's side cup holder in the center console. PO Chan said that after the knife was recovered, PO Bruno conducted no additional search of the vehicle, nor did any other officer. PO Bruno, however, said that he and Sgt. Antoine conducted a vehicle search after the sergeant arrived. PO Bruno did not recall the extent of the search or if he went into any compartments. Sgt. Antoine denied conducting any search, however, based on § 87(2)(b)s, § 87(2)(b)s, and PO Bruno's testimony, the investigation reached a preponderance of the evidence that Sgt. Antoine did conduct some search of the vehicle.

A vehicle search is permissible under the automobile exception if the police have reason to believe that the vehicle contains evidence relating to the crime for which defendant is being arrested or that a weapon might be discovered inside *People v. Martinez*, A.D.2d 94 (1st Dept. 2001) (encl. 3A-B).

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Team: _____

Investigator: _____
Signature Print Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
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